

Serial No. 10/748,165
Docket No. 03-004712
YAN.041

REMARKS

Claims 2-3 and 28-32 are pending in the application. Claims 3 and 28-32 have been amended to more particularly define the invention. Entry of this Amendment is proper because no new issues are being raised which would require the Examiner's further consideration and/or search.

CLAIM OBJECTION

The Office action presents an objection to claim 3 based on informality. More specifically, the assertion is made in the Office action that either the subject matter or the dependency of claim 3 is incorrect. The claim has been revised to address this concern. Consequently, withdrawal of this rejection is urged by Applicant.

CLAIM REJECTIONS UNDER 35 U.S.C. §112

Claim 30 stands rejected under 35 U.S.C. §112, first paragraph, as allegedly failing to comply with the written description requirement. Claim 30 has been amended to address this concern. Applicants make this amendment to claim 30 in an effort to advance prosecution. By making the amendment, Applicants in no way are indicating or implying any agreement with the assertion in the Office action that the claimed invention is directed to non-statutory subject matter.

CLAIM REJECTIONS UNDER 35 U.S.C. §101

Claim 30 stands rejected under 35 U.S.C. 101 as being directed to non-statutory subject matter.

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CLAIM REJECTIONS UNDER 35 U.S.C. §103(a)

Claims 2-3 and 28-32 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,701,155 to Sarkkinen et al. in view of UK patent doc. No. 2 371 179 A in the name of Ericsson. These rejections are traversed.

THE CLAIMED INVENTION

The claimed invention is directed to mobile communications systems. The systems are arranged and operated to deliver identical data from a data source to a plurality of radio terminals. The mobile communication system includes a plurality of radio network controllers (RNCs), each controller maintaining a count of the number of radio terminals connected to the controller to receive the data from the data source and control delivery of the data within an associated cell. The methods and systems accommodate movement of the radio terminal from the first cell to a second cell by connecting the radio terminal to the controller associated with the second cell and responsively decrementing the count of connected radio terminals maintained by the controller associated with the first cell and incrementing the count of connected radio terminals maintained by the controller associated with the second cell. The protocol for delivering data is determined based on a comparison of connected radio terminal counts to predetermined numbers.

THE PRIOR ART REFERENCES

The Sarkkinen et al. Reference

Sarkkinen et al. discloses a mobile communications system in which the movement of

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a radio terminal is notified from a drift RNC to a (SGSN). In contrast, in the present invention the drift RNC, associated with the second cell, notifies the serving RNC, associated with the first cell.

Consequently, Sarkkinen et al. discloses a system in which the serving RNC does not know that the radio terminal has left the first cell, and does not know to decrement the number of subscribing radio terminals.

Further, with respect to dependent claims 3 and 32 in particular, movement of the radio terminal takes place during an idle mode or a standby state. In both Sarkkinen et al. and Ericsson, the movement does not take place during an idle mode or standby state.

The Ericsson Reference

Ericsson does not remedy the deficiencies of Sarkkinen et al. Ericsson has been cited because Sarkkinen et al. does not teach the features noted above, as admitted in the Office action. The Office action also admits, however, that Ericsson does not teach these features. In an improper attempt to 'bootstrap' the teachings of Ericsson into adequacy, the Office action makes two unsupported declarations of obviousness.

First, it is asserted in the Office action that it would have been obvious to have the RNCs update each other. The motivation for this first statement is that it would lessen the burden on the SGSN taught by Sarkkinen et al. Second, it is asserted that it would have been obvious that the RNCs would keep count of connections. The motivation, it is said in the Office action, comes from a need to keep better track of various network parameters.

Significantly, Ericsson does not teach or suggest that the RNCs update each other. Further, there is no suggestion in Sarkkinen et al. of any need to lessen a burden on the

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SGSN. Further, the Office action does not show, and it is not evident, how Sarkkinen et al. would be modified as suggested in the Office action, and whether or not such a modification, even if it could be made, would function. Moreover, Ericsson does not teach or suggest keeping track of connection counts, and the Office action does not point out, nor is it evident, how such a modification would be made absent an improper hindsight application of Applicant's present disclosure.

In addition, the motivation to combine references must come from the prior art. The cited prior art does not contain any of the stated motivation. Applicant requests evidence to support these statements of obviousness and the motivation for the statements contained in the Office action. Absent such evidence, withdrawal of the rejection is urged.

CONCLUSION

In view of the foregoing, Applicant submits that claims 2-3 and 28-32, all the claims presently pending in the application, are patentably distinct over the prior art of record and are allowable, and that the application is in condition for allowance. Such action would be appreciated.

Should the Examiner find the application to be other than in condition for allowance, the Examiner is requested to contact the undersigned attorney at the local telephone number listed below to discuss any other changes deemed necessary for allowance in a telephonic or personal interview.

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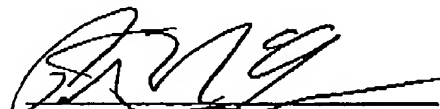
To the extent necessary, Applicant petitions for an extension of time under 37 CFR §1.136.

The Commissioner is hereby authorized to charge any deficiency in fees or to credit any overpayment in fees to Attorney's Deposit Account No. 50-0481.

Date:

2 Jun 06

Respectfully Submitted,



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